

Claims 1 through 6 have been rejected under 35 U.S.C. § 102(E) as being anticipated by Matumoto (U.S. Patent No. 6,302,551) (hereinafter "**Matumoto**"). Withdrawal of the rejection, in light of the following comments, is respectfully solicited.

Independent claim 1 is reproduced below as follows:

1. An illuminating apparatus having a pointer adapted to be turned around a rotary shaft, a display member positioned on a rear side of the pointer and adapted to be transmission illuminated, light sources positioned on a rear side of the display member and in the vicinity of the rotary shaft and adapted to illuminate the display member, a reflector positioned on the rear side of the display member and provided with a reflecting portion, and a light guide member positioned on the rear side of the display member and adapted to guide the light from the light sources to the rear side of the display member, characterized in that a hollow portion is formed between a rear surface of the display member and reflector, an irradiation portion adapted to apply the light, which is reflected on the reflecting portion and illuminates the display member, to the interior of the hollow portion being provided on the light guide member.

Independent claims 2 and 3 recite similar subject matter.

The Office Action applies the reference to the claimed elements, stating that **Matumoto** discloses "a pointer (24) adapted to be turned around a rotary shaft (23), a display member (60) positioned on a rear side of the pointer (24) and adapted to be transmission illuminated, light sources (81, 82, 83) positioned on a rear side of the display member (60) and in the vicinity of the rotary shaft (23) and adapted to illuminate the display member (60)" (*citing* page 1 of Office Action). Murphy is said to disclose a reflector (24c) positioned on the rear side of the display member (60) and provided with a reflecting portion (24b), and a guide member (60a) positioned on the rear side of the display member and adapted to guide the light from the light sources (81, 82, 83) to the rear side of the display member, characterized in that a hollow portion is formed between a rear surface of the display member (20) and reflector (24c)" (*citing* pages 1-2 of Office Action). Murphy is also said to "disclose an irradiation portion (183) adapted to apply the

light (82/83), which is reflected on the reflecting portion (24c) and illuminates the display member, to the interior of the hollow portion being provided on the light guide member (60a)” (*citing* page 2 of Office Action).

It is submitted that **Matumoto’s** purported teaching of “a reflector (24c) positioned on the rear side of the display member (60) and provided with a reflecting portion (24b)” cannot fairly be equated with the claimed “reflector positioned on the rear side of the display member” (see, e.g., claims 1, 3). The noted reflective surface (24a) of **Matumoto** is provided on a rear end of the pointer (24)(i.e., not display member (60), as alleged) and element (24b) is not a “reflecting portion”, but a “pointer part” of the pointer body (see col. 3, lines 20-21).

It is further submitted that the Examiner’s interpretation of the claimed “hollow portion” formed “between a rear surface of the display member and reflector” (see, e.g., claims 1, 3) is improper. **Matumoto** is alleged to teach “a hollow portion is formed between a rear surface of the display member (20) and reflector (24c)”. However, the Examiner’s references relate only to the pointer configuration (see Fig. 2). The Examiner has not shown that **Matumoto** identically teaches a “hollow portion” formed “between a rear surface of the display member and reflector,” such as shown in the example of Fig. 2 of Applicant’s specification (e.g., a hollow portion (29) is formed between a rear surface of the display member (3) and reflector (30)). Therefore, **Matumoto** has not been shown to identically teach each and every element of claims 1, 3, 5 and 6, which recite this feature.

The statement of rejection for the anticipation rejection of claim 2 contains numerous substantive, logical, and typographical errors. For example, the Examiner alleges a “first light sources (81) positioned on the rear side of the pointer (24) and adapted to illuminate the pointer”. However, **Matumoto’s** light source (81) illuminates diffusion plate (180a) provided on a back

side of scale plate (20d) and scale part (28)(see, e.g., Fig. 10; *compare* Fig. 2). Then, the Examiner continues, alleging **Matumoto** teach “. . . a second light guide member (81, 83) positioned on the rear side of the display member and adapted to guide the light from the second light sources (81, 83) to the rear side of the display member”. Thus, the Examiner has used a single reference numeral (81) within a single sentence to denote three separate structures and has used reference numeral (83) to denote two separate structures. Additionally, the Examiner alleges **Matumoto** teaches “a first light guide member (60A) adapted to guide the light from the first light sources (81, 83) to the pointer (24)”. However, light guiding plate (60A) guides light from the light sources (81, 83) to the central portion scale part (28), not to the pointer (24)(see, e.g., col. 8, line 60 to col. 9, line 8; Figs. 2, 10).

The Examiner’s analysis therefore fails even to articulate the asserted correspondence between features of **Matumoto** and the claimed invention.

“The *prima facie* case is a procedural tool of patent examination, allocating the burdens of going forward as between examiner and applicant. The term “*prima facie* case” refers only to the initial examination step. As discussed in *In re Piasecki*, the examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability. If that burden is met, the burden of coming forward with evidence or argument shifts to the applicant. . . . If examination at the initial stage does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of the patent.” *In re Oetiker*, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992)(citations omitted). As the Examiner has failed to set forth a coherent assertion of anticipation, by virtue of the aforementioned errors, it is submitted that the Examiner has not presented a *prima facie* case of anticipation under 35 U.S.C. § 102(e). “If examination at the initial stage does not produce a *prima facie* case of unpatentability, then without more the applicant is

entitled to grant of the patent.” *In re Lowry*, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)(citing *In re Oetiker*, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992)). Withdrawal of the rejection of claims 2 and 4 is requested for at least this reason.

It is further noted that **Matumoto** has not been shown to identically teach a “first light guide member adapted to guide the light from the first light sources to the pointer” and “a second light guide member positioned on the rear side of the display member . . . to guide the light from the second light sources to the rear side of the display member” wherein “the first light guide member and second light guide member are formed in one body,” as recited in claims 2 and 4. Instead, as shown in Figs. 2 and 10 of **Matumoto**, a light guide member (171) is provided to guide light from light source (83) to pointer (24), but is not integrated with light guide member (60A) and does not satisfy the claim requirement that the light guide members “are formed in one body”. Under the law of anticipation, “[f]or a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference. *Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ2d 1315, 1317 (Fed. Cir. 1988) (emphasis added).

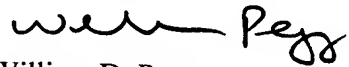
In view of the above, it is respectfully submitted that the Examiner has not shown **Matumoto** identically teach every aspect of the claimed invention and has not discharged his burden of setting forth a *prima facie* case of anticipation.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT, WILL & EMERY



William D. Pegg  
Registration No. 42,988

600 13<sup>th</sup> Street, N.W.  
Washington, DC 20005-3096  
(202) 756-8000 WDP/SAB:kap  
Facsimile: (202) 756-8087  
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